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In re Application of
John A. Arcadi
Serial No.: 09/383,114
Filed: August 25, 1999
Attorney Docket No.: 35687/RWJ/H29

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: PETITION DECISION
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This is in response to applicant's petition under 37 CFR 1.103, filed February 23, 2001, to suspend prosecution of the above identified application for ten months.

Applicant seeks suspension of the examiner's action on this application for a period of ten months should the application not be found allowable as is, presumably to complete additional testing trials, although this is not specifically set forth.

BACKGROUND

This application was filed August 25, 1999, and was complete except for the executed declaration which was filed in reply to a Notice of Missing Parts of Application, Filing Date Granted. The examiner of this application issued a first Office action on October 23, 2000, rejecting the claims under 35 U.S.C. 103(a). Applicant responded to the Office action by filing a proper response and amendment and by concurrently filing this petition.

DISCUSSION

37 CFR 1.103. Suspension of action.

(a) Suspension of action by the Office will be granted for good and sufficient cause and for a reasonable time specified upon petition by the applicant and, if such cause is not the fault of the Office, the payment of the fee set forth in §1.17(I). Action will not be suspended when a reply by applicant to an Office action is required.

M.P.E.P. 709 relates to suspension of action in an application. 37 CFR 1.103 permits the Office to suspend action upon petition by applicant for **good and sufficient cause** (emphasis added). Applicant does not set forth any reason in the petition other than to refer to the reply which indicates continuing human trials. Such is not sufficient to warrant suspension unless it is also shown that such trials cannot be completed within a reasonable amount of time and that they are necessary for patentability. Since applicant's reply which references the trials and provides affidavit evidence has not been evaluated by the examiner suspension of prosecution is not warranted. Further, suspension of prosecution is not granted for more than six months. Suspension beyond six months may be requested in six month increments.

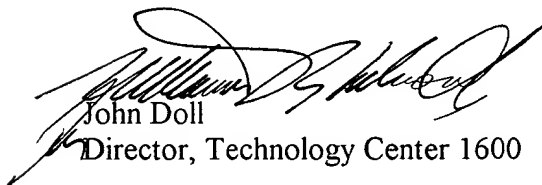
DECISION

The petition to suspend action is **DENIED**. Applicant has not presented a "good and sufficient cause" warranting suspension of action by the examiner.

The application will be forwarded to the examiner following the mailing of this decision for further action not inconsistent with this decision.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the mailing date of this decision.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, Washington, D.C. 20231, or by telephone at (703)308-3824 or by facsimile transmission at (703) 305-7230.



John Doll
Director, Technology Center 1600